

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address JAMIE LYNN GALLIAN 16222 MONTEREY LANE UNIT 376 HUNTINGTON BEACH, CA 92649 (714)321-3449 JAMIEGALLIAN@GMAILCOM</p> <p><input checked="" type="checkbox"/> Individual appearing without an attorney <input type="checkbox"/> Attorney for:</p>	<p>FOR COURT USE ONLY</p>
<p style="text-align: center;">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</p>	
<p>In re: JAMIE LYNN GALLIAN</p> <p style="text-align: right;">Debtor(s)</p>	<p>CASE NO.: 8:21-BK-11710-SC CHAPTER: 7</p> <p>NOTICE OF LODGMENT OF ORDER IN BANKRUPTCY CASE RE: (title of motion¹): CHAPTER 7 TRUSTEE'S APPLICATION TO EM REAL ESTATE BROKER COLDWELL BANKER AND AGENTS PURSUANT TO 11 U.S.C. §§ 327</p>

and 328.

PLEASE TAKE NOTE that the order titled ORDER DENYING CHAPTER 7 TRUSTEE JEFFREY I GOLDEN'S APPLICATION OF THE CHAPTER 7 TRUSTEE TO EMPLOY REAL ESTATE BROKER COLDWELL BANKER REALTY AND AGENTS I FRIEDMAN AND GREG BINGHAM PURSUANT TO 11 U.S.C. §§ 327 AND 328. was lodged on (date) 09/17/2022 and is attached. This order relates to the motion which is docket number 162.

¹ Please abbreviate if title cannot fit into text field.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
5801 SKYLAB ROAD
HUNTINGTON BEACH, CA 92649

A true and correct copy of the foregoing document entitled: **NOTICE OF LODGMENT OF ORDER IN BANKRUPTCY CASE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 09/17/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:** On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

09/17/2022
Date

ROBERT MCLELLAND
Printed Name

Robert McLelland
Signature

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** CONTINUED:

- **ATTORNEY FOR TRUSTEE JEFFREY I GOLDEN (TR):** Aaron E DE Leest adeleest@DanningGill.com, danninggill@gmail.com; adeleest@ecf.inforuptcy.com
- **ATTORNEY FOR CREDITOR and PLAINTIFF THE HUNTINGTON BEACH GABLES HOMEOWNERS ASSOCIATION:** Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com; goeforecf@gmail.com
- **TRUSTEE JEFFREY I GOLDEN (TR):** Jeffrey I Golden (TR) lwerner@wgllp.com, jig@trustesolutions.net; kadele@wgllp.com
- **ATTORNEY FOR PLAINTIFF HOUSER BROS. CO.:** D Edward Hays ehays@marshackhays.com, ehays@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com; cmendoza@marshackhays.com; cmendoza@ecf.courtdrive.com
- **ATTORNEY FOR CREDITOR and PLAINTIFF THE HUNTINGTON BEACH GABLES HOMEOWNERS ASSOCIATION:** Brandon J Iskander biskander@goeforlaw.com, kmurphy@goeforlaw.com
- **ATTORNEY FOR TRUSTEE JEFFREY I GOLDEN (TR):** Eric P Israel eisrael@DanningGill.com, danninggill@gmail.com; eisrael@ecf.inforuptcy.com
- **ATTORNEY FOR PLAINTIFF HOUSER BROS. CO.:** Laila Masud lmassud@marshackhays.com, lmassud@ecf.courtdrive.com; kfrederick@ecf.courtdrive.com
- **ATTORNEY FOR DEFENDANT RANDALL L NICKEL:** Mark A Mellor mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com
- **INTERESTED PARTY COURTESY NEF:** Valerie Smith claims@recoverycorp.com
- **U.S. TRUSTEE:** United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

June 2012

F 9013-3.1.PROOF.SERVICE

JAMIE LYNN GALLIAN
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Huntington Beach, CA 92649
(714)321-3449
jamiegallian@gmail.com

IN PRO PER

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re

JAMIE LYNN GALLIAN,

Debtor.

Case No. 8:21-bk-11710-SC

Hon. Scott C. Clarkson

Chapter 7

AMENDED - ORDER DENYING
CHAPTER 7 TRUSTEE JEFFREY I
GOLDEN'S APPLICATION OF THE
CHAPTER 7 TRUSTEE TO EMPLOY
REAL ESTATE BROKER COLDWELL
BANKER REALTY AND AGENTS
WILLIAM FRIEDMAN AND GREG
BINGHAM PURSUANT TO 11 U.S.C. §§
327 AND 328; MEMORANDUM OF
POINTS AND AUTHORITIES; AND
DECLARATIONS OF WILLIAM
FRIEDMAN AND GREG BINGHAM IN
SUPPORT [DOC 162]

HEARING DATE

Date: September 13, 2022

Time: 11:00 a.m.

Ctrm: 5C VIA ZOOMGOV

Address: 411 W. Fourth Street
Santa Ana, CA 92701

TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY
JUDGE, AND ALL INTERESTED PARTIES:

On July 28, 2022, Chapter 7 Trustee, Jeffrey I. Golden, ("Trustee") filed "APPLICATION
TO EMPLOY REAL ESTATE BROKER COLDWELL BANKER REALTY AND AGENTS
WILLIAM FRIEDMAN AND GREG BINGHAM PURSUANT TO 11 U.S.C. §§ 327 AND 328;
MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATIONS OF WILLIAM

1 FRIEDMAN AND GREG BINGHAM IN SUPPORT” [DOC 162]. The Motion was set for hearing
2 on September 13, 2022, at 11:00 a.m. [DOC NO. 195]

3 On August 30, 2022, Jamie Lynn Gallian (“DEBTOR”) filed “OPPOSITION TO
4 APPLICATION OF THE CHAPTER 7 TRUSTEE TO EMPLOY REAL ESTATE BROKER
5 COLDEWELL BANKER REALTY AND AGENTS WILLIAM FRIEDMAN AND GREG
6 BINGHAM PURSUANT TO 11 U.S.C. §§327 AND 328; DOC 128; DECLARATION JAMIE
7 LYNN GALLIAN ISO OF OPPOSITION. (“OPPOSITION”) [DOC 208].

8 On September 7, 2022, *Statement 218, The Huntington Beach Gables Homeowners*
9 *Association Joinder to Trustee’s Reply in Support of Application to Employ Real Estate Broker.*
10 [DOC 221].

11 On September 13, 2022, at 11:00 a.m. the Court conducted a hearing on the Application of
12 the Chapter 7 Trustee to Employ Real Estate Broker Coldwell Banker Realty and Agents William
13 Friedman and Greg Bingham pursuant to 11 U.S.C. §§327 and 328.

14 Before September 13, 2022, at 11:00 a.m., the Court published a tentative ruling. A true and
15 correct copy of the Court’s tentative ruling for the September 13, 2022, hearing is attached as
16 **EXHIBIT 1.**

17 On September 13, 2022, at 11:00 a.m. the Court held a hearing on the Trustee’s Application.
18 [DOC 162]. Appearances were as noted on the record.

19 During the hearing, all parties were given an opportunity to be heard. The Court having read
20 and considered the Trustee’s Application, argument presented by the Trustee’s Counsel, Eric Israel;
21 argument presented by Jamie Lynn Gallian (“Debtor”) in support of Opposition to Trustee’s
22 Application; and argument presented by Joinder Huntington Beach Gables Homeowners Association
23 (“Gables HOA”) Attorney Robert Goe.

24 Attorney Goe presented argument concerning debtors denied homestead exemption [DOC
25 177], citing *In re Schaefer*, 623 B.R. 777 (B.A.P. 9th Cir. 2020) to the Court.

26 The Honorable Scott C Clarkson addressed Attorney Goes’ argument and discussed a recent
27 unpublished opinion by the Ninth District Court. See Footnote 1.

1 On August 31, 2022, The Ninth Circuit filed MEMORANDUM No. 20-60055.

2 The relevant portion to the Debtor's bankruptcy case at bar, page 3, of the Ninth Circuit
3 Memorandum No. 60055....."the published decision of the Bankruptcy Appellate Panel Order of
4 the bankruptcy court sustaining the objection to the claimed homestead exemption, *In re Bernd*
5 *Schaefers* [Dkt. No. 143], Case No. 9:19-bk-11163-MB (Bank. C.D. Cal. Mar. 18, 2020) **are**
6 **VACATED". EXHIBIT 2**

7 After all arguments were addressed by the Court, all other pleadings and papers filed in this
8 case considered, and having heard the arguments made on the record during the September 13, 2022,
9 hearing, the Court enters its order as follows:

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Foot Note 1

18 **Ninth Circuit Rule 36-3. Citation of Unpublished Dispositions or Orders**

19 **Not Precedent.** Unpublished dispositions and orders of this Court are not precedent, except when
(a) relevant under the doctrine of law of the case or rules of claim preclusion or issue preclusion.

20 **Citation of Unpublished Dispositions and Orders Issued on or after January 1, 2007.**

21 Unpublished dispositions and orders of this Court issued on or after January 1, 2007 may be cited
(b) to the courts of this circuit in accordance with FRAP 32.1.

22 **Citation of Unpublished Dispositions and Orders Issued before January 1, 2007.**

23 Unpublished dispositions and orders of this Court issued before January 1, 2007 may not be cited
(c) to the courts of this circuit, except in the following circumstances.

24 (i) They may be cited to this Court or to or by any other court in this circuit when relevant under the
doctrine of law of the case or rules of claim preclusion or issue preclusion.

25 (ii) They may be cited to this Court or by any other courts in this circuit for factual purposes, such as
to show double jeopardy, sanctionable conduct, notice, entitlement to attorneys' fees, or the
existence of a related case.

26 (iii) They may be cited to this Court in a request to publish a disposition or order made pursuant to
27 Circuit Rule 36-4, or in a petition for panel rehearing or rehearing en banc, in order to demonstrate
the existence of a conflict among opinions, dispositions, or orders.

1 IT IS ORDERED that Chapter 7 Trustee's Application to Employ Real Estate Broker
2 Coldwell Banker Realty and Agents William Friedman and Greg Bingham pursuant to 11 U.S.C.
3 §§327 and 328 is DENIED WITHOUT PREJUDICE.

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22 Date: September _____, 2022

23 Scott C. Clarkson
24 United States Bankruptcy Judge
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EXHIBIT 1

**United States Bankruptcy Court
Central District of California
Santa Ana
Scott Clarkson, Presiding
Courtroom 5C Calendar**

Tuesday, September 13, 2022

Hearing Room 5C

11:00 AM

8:21-11710 Jamie Lynn Gallian

Chapter 7

#12.00

Hearing RE: Application Of The Chapter 7 Trustee To Employ Real Estate Broker Coldwell Banker Realty And Agents William Friedman And Greg Bingham Pursuant To 11 U.S.C. Sections 327 And 328
(Motion filed 7/28/2022)
(Set per Amended Notice of Hearing filed 8/22/2022)

Docket 162

Tentative Ruling:

Tentative for 9/13/22:

The Court would like to hear from the parties regarding this analysis:

If the broker fails to sell the Property (because no one will buy it or it cannot be sold under § 363), the broker will not receive compensation from the Estate. Further, it appears that the broker is not being employed to sell the non-real property "interest" of the Debtor, but only the real estate. If employment is granted, it will not be determinative of whether the real property may be sold under § 363, but only that if it can be (and is) sold, the broker may be compensated.

Virtual appearances required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using Zoom for Government, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted.

Videoconference URL: <https://cacb.zoomgov.com/j/1613937735>

Meeting ID: 161 393 7735

**United States Bankruptcy Court
Central District of California
Santa Ana
Scott Clarkson, Presiding
Courtroom 5C Calendar**

Tuesday, September 13, 2022

Hearing Room 5C

11:00 AM

CONT... Jamie Lynn Gallian

Chapter 7

Password: 918252

If a participant is unable to send and receive audio through his/her computer, or join the videoconference through an Internet browser for any reason, the audio of the hearing may be accessed by telephone using the following audio conference information:

Audioconference Tel. No.: +1 (669) 254 5252 or +1 (646) 828 7666

Meeting ID: 161 393 7735

Password: 918252

For further details, please consult the instructions on the Court's website <https://www.cacb.uscourts.gov/judges/honorable-scott-c-clarkson>.

Please note that default matters may be called prior to the videoconference, so there may be a slight delay to the official start time of the videoconference hearing.

As noted in the Court's Zoom Video Hearing Guide, located at <https://www.cacb.uscourts.gov/node/7890>, all persons are strictly prohibited from making any recording of court proceedings, whether by video, audio, "screenshot," or otherwise. Violation of this prohibition may result in the imposition of monetary and non-monetary sanctions.

Party Information

Debtor(s):

Jamie Lynn Gallian

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Scott Clarkson, Presiding
Courtroom 5C Calendar**

Tuesday, September 13, 2022

Hearing Room 5C

11:00 AM

CONT... Jamie Lynn Gallian

Chapter 7

Movant(s):

Jeffrey I Golden (TR)

Represented By
Aaron E DE Leest
Eric P Israel

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Aaron E DE Leest
Eric P Israel

EXHIBIT 2

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: BERND SCHAEFERS,

Debtor,

No. 20-60055

BAP No. 20-1067

BERND SCHAEFERS,

Appellant,

MEMORANDUM*

v.

BLIZZARD ENERGY, INC.; FRANZISKA
SHEPARD,

Appellees.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Spraker, Gan, and Lafferty III, Bankruptcy Judges, Presiding

Submitted August 30, 2022**

Before: WALLACE, FERNANDEZ, and SILVERMAN, Circuit Judges

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Bernd Schaefers appeals pro se from the decision of the Bankruptcy Appellate Panel that affirmed the denial by the bankruptcy court of his homestead exemption claim. We have jurisdiction under 28 U.S.C. § 158(d), and we dismiss the appeal as moot.

Schaefers claimed a homestead exemption in his interest in BKS Cambria, LLC. While this appeal was pending, the bankruptcy court granted the Chapter 7 trustee's motion to abandon all assets of the estate, including any interest in BKS Cambria, LLC. ^{DE's in interest in} Because BKS Cambria, LLC is no longer part of the estate, ^A Schaefers can no longer claim a homestead exemption in it in the bankruptcy case. See 11 U.S.C. § 522(b)(1) (stating that "an individual debtor may exempt *from property of the estate...*") (emphasis added).

Thus, this appeal is moot. See *In re Nat'l Mass Media Telecomm. Sys., Inc.*, 152 F.3d 1178, 1180 (9th Cir. 1998) (holding that a case is moot when "an event occurs while a case is pending appeal that makes it impossible for the court to grant 'any effectual relief'"), quoting *Church of Scientology of California v. United States*, 506 U.S. 9, 12 (1992).

Because the appeal is moot due to reasons outside of Schaefers' control, vacatur of the decisions below is warranted. See *In re Pattullo*, 271 F.3d 898, 902 (9th Cir. 2001) (vacating district court and bankruptcy court orders where bankruptcy appeal was mooted by dismissal of Chapter 13 proceeding).

Accordingly, the published decision of the Bankruptcy Appellate Panel, *In re Schaefers*, 623 B.R. 777 (B.A.P. 9th Cir. 2020), and the order of the bankruptcy court sustaining the objection to the claimed homestead exemption, *In re Bernd Schaefers*, Dkt. No. 143, Case No. 9:19-bk-11163-MB (Bank. C.D. Cal. Mar. 18, 2020), are VACATED.

Schaefers' requests for judicial notice (Dkt. Nos. 15 and 24) are GRANTED.

APPEAL DISMISSED.